

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Shelton Andra Kirksey,

Plaintiff,

**V.**

Greenville County Sheriff's Office;  
Greenville County Court House;  
Magistrate Judge James E. Hudson,

Defendants.

Case No. 6:24-cv-07308-JDA

## OPINION AND ORDER

This matter is before the Court on a Report and Recommendation (“Report”) of the Magistrate Judge. [Doc. 13.] In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), D.S.C., this matter was referred to United States Magistrate Judge Kevin F. McDonald for pre-trial proceedings.

Plaintiff filed his Complaint on December 17, 2024. [Doc. 1.] On February 6, 2025, the Magistrate Judge issued a Report and Recommendation (“Report”) recommending that the matter be dismissed with prejudice,<sup>1</sup> without leave to amend, and without issuance and service of process. [Doc. 13.] The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. [*Id.* at 7.] Plaintiff has filed no objections and the time to do so has lapsed.

1 As the Magistrate Judge noted, to the extent Plaintiff's denial of due process and improper arrest claims seek money damages from Defendants, such claims are barred by *Heck v. Humphrey*, 512 U.S. 477 (1994), and should be dismissed *without* prejudice. [Doc. 13 at 3–5.]

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation” (internal quotation marks omitted)).

The Court has reviewed the record in this case, the applicable law, and the Report of the Magistrate Judge for clear error. Having done so, the Court accepts the Report and Recommendation of the Magistrate Judge and incorporates it by reference. Accordingly, this action is DISMISSED with prejudice (except for the claims barred by *Heck*) and without issuance and service of process.

IT IS SO ORDERED.

s/ Jacquelyn D. Austin  
United States District Judge

March 6, 2025  
Greenville, South Carolina

**NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.